

### **REMARKS/ARGUMENTS**

This Amendment is being filed in response to the Final Office Action dated September 15, 2011. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2 and 5-14 are pending in the Application. Claims 1, 9, 10, 11, 12 and 13 are independent claims.

The finality of this Office Action was erroneously designated. In the Advisory Action it is indicated that the claim amendment "content protection information comprises a key block and a pointer to a location of a copy of the key block" required further search and consideration. If that amendment did not raise new issues, the Examiner had an obligation to indicate that much, which would have allowed the Applicants the period since (eight months) during which to file an appeal or to otherwise further prosecution.

As made clear by the MPEP in §706.7(b) entitled "Final Rejection, When Proper on First Action" (emphasis added):

However, it would not be proper to make final a first Office action in a continuing or substitute application >or an RCE< where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

Further, in this Final Office Action the Examiner failed to present any response to the claim amendments and arguments presented in response to the previous Final Office Action. Since the Applicants have not had the benefit of having the Arguments presented

in the January 10, 2011 Amendment After Final Action addressed in the current Final Office Action (i.e., no Response to Arguments section is provided even though the identical art is presented in the current office action as in the last), any further action should be non-final.

As made clear by MPEP §707(f) in a section entitled "Answer All Material Traversed":

Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

As such, it is respectfully requested that should a rejection be maintained in a further office action, that the office action be issued as a non-final office action to provide the Applicants an opportunity to respond to any new discussion (i.e., a Response to Arguments discussion) provided therein.

In the Final Office Action, claims 13-14 are rejected under 35 U.S.C. §101. In response the rejected claims are amended as suggested by the Examiner. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 13-14 are rejected under 35 U.S.C. §112, first paragraph. In response the Applicants respectfully point out that the term "Computer readable medium" refers to items such as recordable media and Record Carriers which are referenced throughout the specification including the Title. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 1, 2 and 5-12 are rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,938,162 to Nagai et al. ("Nagai"). Claims 13 and 14 are rejected

under 35 U.S.C. §103(a) over Nagai in view of U.S. Patent No. 6,236,727 to Ciacelli ("Ciacelli"). These rejections are respectfully traversed. It is respectfully submitted that the rejected claims are allowable for at least the following reasons.

As previously argued, the specification of the present application describes the importance for legacy players to have the content protection information provided on a record carrier for protection of "content is stored in said side channel in said data zone" (see, present application, page 2, lines 23-31). FIGs. 4C and 4D illustrate the layout of the record carrier 1 that includes the data zone 7, the inner drive area 3, and the lead-in area 5. The inner drive area 3 includes the initial zone 25 storing a copy of the key block 24. The **key blocks** are described in the specification essentially as "tables of cryptographic information which are distributed on empty R and RW media with the purpose of rendering revoked players and recorders inoperable." The content protection information including the key block 26 and the reference or pointer 28 to the key block 24 are stored the data zone 7. Accordingly, claim 1, for example, recites "a data zone including content protection information" and "the content protection information comprises a key block and a pointer to a location of a copy of the key block stored in said initial zone, the key block used for protection of said content is stored in said side channel in said data zone".

The Final Office Action, at page 3 over to page 4, repeats its previous comparison of Nagai's key index recorded in the key information 408 to the claimed "pointer to a location of a copy of the key block". The key information area 501 of Nagai is described as follows:

In the key information area 501, the number of recorded key areas 504 is recorded, and the key information area 501 includes (a) a descramble key

area 505, which is an area for recording the descramble key to descramble the scrambled AV data or the like, and (b) a key status area 506 for recording therein a recording status (indicating unused, area reservation, recorded or the like) of the descramble key which is recorded in the descramble key area 505.

Thus, the key information area 501 **is NOT** the claimed "key block" defined as "tables of cryptographic information". The **key index** which is defined in Nagai as "a pointer to the descramble key which is recorded onto another area of the optical disk 100" **is NOT** the claimed "pointer to a location of a copy of the key block". Further, because Nagai does not disclose any area of its disk to record "a key block and a pointer to a location of a copy of the key block", as recited in claim, for example, Nagai fails to teach, disclose or suggest the claims recitations.

It is respectfully submitted that the claims are not anticipated or made obvious by the teachings of the presented prior art references. For example, Nagai does not teach, disclose or suggest, amongst other patentable elements, (illustrative emphasis added) "the content protection information comprises a key block and a pointer to a location of a copy of the key block stored in said initial zone, the key block used for protection of said content is stored in said side channel in said data zone" as recited in claim 1 and as similarly recited in each of claims 9-13.

Ciacelli is introduced only for allegedly showing a non-transitory computer program, and as such does not remedy the above discussed deficiencies of Nagai.

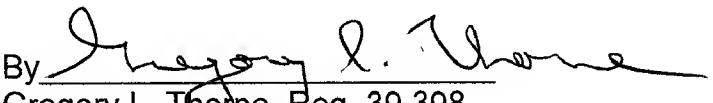
Based on the foregoing, the Applicants respectfully submit that the independent claims are patentable and notice to this effect is earnestly solicited. The dependent claims

respectively depend from one of the independent claims and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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